

37-80-101. State engineer

The governor shall appoint a state engineer, pursuant to section 13 of article XII of the state constitution. The OFFICE OF THE state engineer shall ~~have his office~~ BE LOCATED WITHIN at the state capital COMPLEX, in suitable rooms ~~to be provided for him~~ with suitable furniture, ~~postage, and such proper~~ and OPERATING BUDGET necessary ~~stationery, books, and instruments as are required to best enable him~~ to discharge the duties of his THE office. ~~The state engineer, before entering on the discharge of his duties, shall take and subscribe to an oath, before the judge of a state court of record, to faithfully perform the duties of his office and file said oath with the secretary of state, together with his official bond, in the penal sum of ten thousand dollars, said bond to be executed by a responsible surety company authorized to do business within the state, and conditioned upon the faithful discharge of the duties of his office and for delivering to his successor or other officer authorized by the governor to receive the same all moneys, books, instruments, and other property belonging to the state then in his possession or under his control, or with which he may be legally chargeable as such state engineer.~~

37-80-102. General duties of state engineer - supervision and utilization of employees - satellite AND TELEMETRY monitoring systems

(1) The state engineer is the executive officer in charge of supervising the work of all division engineers and may direct their supervision of their employees. The state engineer has executive responsibility and authority with respect to:

...

(k) Such other acts as may be reasonably necessary to enable him OR HER to secure the effective and efficient operation of the division of water resources, including power and authority to make and enforce such rules or regulations as he OR SHE may find necessary or desirable to effectuate the performance of his OR HER duties. The making of such rules or regulations shall not be a prerequisite to control of personnel of the division of water resources or the performance of his OR HER duties under the constitution or laws of Colorado or any compact, treaty, or judicial decree or decision which does not, by its specific terms, require implementation by such rule or regulation.

(l) Receiving and expending grants and distributions of money, property, and equipment from the Colorado water conservation board OR OTHER ENTITY for use in making investigations, contracting projects, or otherwise carrying out the purposes of this article. The grants and distributions from the Colorado water conservation board are continuously appropriated to the state engineer for the purposes set forth in this section.

(10) The state engineer is authorized to accept, operate, and house in SUITABLE LOCATIONS ~~the Centennial Building at 1313 Sherman Street, Denver, Colorado,~~ automated data processing equipment and programs associated with a satellite

AND TELEMETRY BASED monitoring system ~~S to be acquired by the Colorado water resources and power development authority and~~ dedicated to the state of Colorado for operation and use by the Colorado state engineer.

37-80-105. Supervision over division engineers

The state engineer shall have general charge over the work of the division engineers; shall furnish them with all the data and information necessary for the proper and intelligent discharge of the duties of their offices; shall require them to report to him OR HER at suitable times their official actions; and shall require of them annual statements, ~~on blanks to be furnished by him,~~ of the amount of water diverted from the public streams in their respective divisions and such other statistics as, in the judgment of the state engineer, will be of benefit to the state.

37-80-106. Appointment of deputies

(1) The state engineer may appoint one or more deputies as ~~he may deem~~ DEEMED proper ~~TO for assisting him~~ in the discharge of the duties of ~~his~~ THE office, or ~~he~~ may deputize any person to do a particular service, and ~~he~~ has the power to revoke such appointments when, in his OR HER judgment, there is no further need for the services of anyone so appointed or deputized. Such appointments and revocations thereof shall be in writing over the signature and official seal of the state engineer, the original of which shall be MAINTAINED IN THE OFFICE OF THE STATE ENGINEER. ~~filed in the office of the secretary of state. All persons so appointed or deputized shall take and subscribe to an oath, before a judge of a court of record, to faithfully perform the duties of the office to which he is appointed or required to perform; and such oath shall be filed with his appointment in the office of the secretary of state. All such persons so appointed or deputized by the state engineer shall furnish an official bond with surety executed by a responsible surety company, authorized to do business within the state, in the penal sum of not less than one thousand dollars nor more than five thousand dollars. The cost of such bonds shall be paid by said deputies.~~

37-80-108. Appoint deputy for special work

The state engineer, on request of any party interested and on payment of ~~his~~ per diem charges and reasonable expenses, ~~shall~~ MAY appoint a deputy to measure, compute, and ascertain all necessary data of any canal, dam, reservoir, or other construction, as required or as may be desired to establish court decrees, or for filing statements in compliance with law in the county clerk and recorder's records.

37-80-110. Fees collected by state engineer

(1) The state engineer shall collect fees for work done in his or her office, as follows:

(a) REPEALED. ~~For examination and filing of each map and statement describing a claim to a water right, twenty dollars if the amount of water claimed does not exceed twenty cubic feet per second of time and an additional one dollar for each~~

~~cubic foot per second of time claimed in excess of twenty; but the total collected for examination and filing of each claim shall not exceed the sum of one hundred fifty dollars;~~

~~(b) REPEALED. For examination and filing of each map and statement describing a claim to water for storage, twenty dollars for each one thousand acre-foot or fraction thereof of storage capacity claimed; but no fees shall be charged for amended maps and statements where no additional capacity is claimed, and, where additional capacity is claimed, the fees shall be charged for such additional capacity as for original filings; but the total amount of fees collected for examination and filing of each claim on any original or amended map and statement shall not exceed the sum of one hundred fifty dollars. In cases where no fee is charged for filing a map and statement describing a claim to water, the claimant shall pay the required fee for all blueprints or other reproductions.~~

~~(c) REPEALED. For filing each judicial decree ordering the transfer of a water right or the change of a point of diversion, two dollars;~~

~~(d) REPEALED. For each certificate, other than those which may be required in the case of original filings of claims to water rights, requiring official signature and seal, two dollars;~~

(e) With respect to a proposed project for a dam, for the examination and filing of each set of plans and specifications required by law to be filed in the office of the state engineer, six dollars for each one thousand dollars or fraction thereof of the estimated cost of a proposed project; but the total amount of fees for examination and filing of each set of plans and specifications must not be less than one hundred dollars nor more than thirty thousand dollars;

~~(f) REPEALED. For copies of maps, two dollars for each hour or fraction thereof necessary for the making of such copies;~~

~~(g) REPEALED. For each blueprint of a tracing forming a public record, two dollars;~~

~~(h) REPEALED. For copies of records, fifty cents a folio;~~

~~(i) REPEALED. For rating any ditch, canal, reservoir inlet or outlet, at the request of the owner thereof or of any agent or employee having control of the same, twenty-five dollars per day and actual expenses for each day actually and necessarily employed by the engineers in making such rating.~~

~~(2) REPEALED. The provisions of this section shall not apply to operations conducted under the supervision of the United States for irrigation of lands entirely within the state of Colorado.~~

(3) THE STATE ENGINEER SHALL SET FEES BY RULE FOR:

(A) COPIES, CERTIFIED COPIES, AND MAP AND LARGE FORMAT PRINTS;

(B) THE HYDROGRAPHIC MEASUREMENT AND/OR RATING OF A WATER DIVERSION MEASUREMENT STRUCTURE PURSUANT TO A REQUEST BY THE OWNER;

(C) THE CERTIFICATION OF A WELL METER TESTER AS REQUIRED BY WELL MEASUREMENT RULES; AND,

(D) OTHER DUTIES PERFORMED PURSUANT TO 37-80-102, EXCLUDING ACTIVITIES IDENTIFIED IN SUBSECTION (1) OF THIS SECTION.

37-80-111.5. Fees - satellite monitoring system cash fund - well inspection cash fund - created

(1) (a) and (b) Repealed.

(c) The state engineer shall set and collect fees by rule and regulation for the use of the equipment and programs of the satellite AND TELEMETRY monitoring system authorized pursuant to section 37-80-102 (10). All such fees collected by the state engineer and all other moneys received from whatever source for the satellite AND TELEMETRY monitoring system shall be transmitted to the satellite monitoring system cash fund, which fund is hereby created. Moneys in the satellite monitoring system cash fund may be expended by the state engineer for the purposes of section 37-80-102 (10) and this paragraph (c), subject to appropriation by the general assembly.

(d) Of each fee collected pursuant to sections 37-90-105 (3) (a) (I) and (4) (a), 37-90-107 (7) (d) (I), 37-90-116 (1) (a), (1) (c), and (1) (h), 37-90-137 (2) (a), and 37-92-602 (3) (a) and (5), forty dollars shall be credited to the well inspection cash fund, which fund is hereby created. Moneys in the well inspection cash fund shall be appropriated to and expended by the state engineer for the purposes established in section 37-91-113. Any moneys credited to the well inspection cash fund and unexpended at the end of any given fiscal year remain in the fund and do not revert to the general fund. All interest derived from the deposit and investment of this fund remain in the fund and do not revert to the general fund.

(2) Repealed.

(3) Nothing in this section shall be interpreted to require the purchase of any publication referred to in this section.

(4) Repealed.

37-80-114. Deputy state engineer - powers

(1) The state engineer shall appoint a deputy state engineer, subject to the provisions of section 13 of article XII of the state constitution relating to the state personnel system, whose duties shall be to assist the state engineer in the administration of his OR HER office. The deputy state engineer has the power to act for the state engineer in all his OR HER official duties, including the administration of interstate river compacts, ~~WHEN during the absence of~~ the state engineer IS

OUT OF THE~~from his~~ office or when so directed by the state engineer.

(2) The salary of the deputy state engineer shall be paid as the salaries of the officers of the executive department of the state are paid. He OR SHE shall also receive reimbursement ~~monthly~~ for the actual necessary expenses incurred in the performance of his OR HER official duties, as shall be allotted by the state engineer from funds appropriated for such purpose. The controller is authorized to pay warrants for said salary and expenses upon vouchers approved by the state engineer.

(3) ~~REPEALED. The deputy state engineer, before entering on the discharge of his duties, shall take and subscribe to an oath before the judge of a state court of record to faithfully perform the duties of his office and file said oath with the secretary of state, together with his official bond in the penal sum of ten thousand dollars. The bond shall be executed by a responsible surety company authorized to do business within the state and conditioned upon the faithful discharge of the duties of his office.~~

37-84-117. Reservoirs in streams

(2) The owners of such reservoir, at their own expense, under the supervision and with the approval of the state engineer, shall permanently fix and maintain a gauge rod OR OTHER INSTRUMENT TO MEASURE THE SURFACE ELEVATION OF THE RESERVOIR OR BOTH, AS DIRECTED BY THE STATE ENGINEER, at or near the outlet of such reservoir, marked in feet and tenths and one-hundredths of a foot, and in correspondence with the contour lines, from and by means of which the amount of water stored in ~~, or taken from,~~ said reservoir may be correctly ascertained, and, at the expense of such owners and under the supervision and with the approval of the state engineer, shall construct and permanently maintain a suitable and permanent measuring ~~weir or flume~~ STRUCTURE equipped with self-registering devices, according to plans and specifications approved by the state engineer, EITHER in the bed and channel of every natural stream or watercourse discharging waters into said reservoir OR ON EACH RELEASE FROM SAID RESERVOIR by means of which, IN COMBINATION WITH THE AMOUNT OF WATER STORED, all of the water flowing into said reservoir from ~~and through each such~~ THE NATURAL stream or watercourse, at all times may be ~~definitely~~ DEFINITELY ascertained and determined.

37-87-103. Notice of release of stored waters

The owners of reservoirs who avail themselves of the provisions of this section and section 37-87-102 shall give reasonable prior notice to the ~~irrigation~~ division engineer APPOINTED PURSUANT TO SECTION 37-92-202 of the ~~irrigation~~ division in which the reservoir is located ~~or to the chief administrative water official of such irrigation division~~ of the date on which they desire to release stored waters into any natural streams, together with the quantity thereof in cubic feet per second of time, the length of period to be covered by such releases, and the name of the STRUCTURE OR OTHER LOCATION ~~ditch, canal, pipeline, or reservoir~~ to which the

water so released from storage is to be delivered, to the end that the water officials in responsible charge of any stream into which such stored water is released shall have ample time in which to make the necessary observations, measurements of flow and storage and records thereof and to provide for a proper patrol of the said stream, for the protection of the reservoir owner and also all other appropriators along the stream whose interests might be affected as a result of such reservoir release. ~~Such notice may be given to the division engineer when the reservoir from which the water is to be released and the point where the water is to be taken from the stream or again stored are in the same water district.~~

37-88-101. Authority to locate and construct

For the purpose of reclaiming, by irrigation, state and other lands and for the purpose of furnishing work for inmates, the department of corrections is authorized to locate, acquire, and construct, in the name of and for the use of the state of Colorado, ditches, canals, reservoirs, and feeders, for irrigating and domestic purposes, and for that purpose may use the labor of persons in the custody of the department of corrections.

37-88-102. State engineer shall survey, lay out, and locate

~~REPEALED. The state engineer, under the direction of the department of corrections, shall survey, lay out, and locate a ditch or canal upon the most feasible route on either side of the Arkansas river, which said ditch or canal shall be of sufficient capacity to cover at least thirty thousand acres of good arable land between Canon City and Pueblo; but work shall only be commenced and performed upon one main ditch, canal, reservoir, or feeder at a time, and a second shall not be commenced until the completion of the first.~~

37-90-11(2) Departments and agencies of the state of Colorado THAT WILL OWN AND OPERATE A WELL ON STATE LAND shall be exempt from the payment of fees for applications for the use of groundwater or for a permit to construct a ~~THE~~ well.

37-92-308. Substitute water supply plans - special procedures for review - water adjudication cash fund - legislative declaration - repeal

(4) (a) (III) The state engineer has given those to whom notice was provided thirty FIVE days after the date of mailing of such notice to file comments on the substitute water supply plan. Such comments shall include any claim of injury, any terms and conditions that should be imposed upon the plan to prevent injury to an opposer's water rights or decreed conditional water rights, and any other information an opposer wishes the state engineer to consider in reviewing the substitute water supply plan request.

37-92-401. Tabulations of priorities and decennial abandonment lists

(1) (a) The division engineer of each division with the approval of the state engineer shall maintain a tabulation in order of seniority of all decreed water rights and conditional water rights in his or her division. The tabulations must describe each water right and conditional water right by some appropriate means and must set forth the priority and amount thereof as established by court decrees. In making the tabulations, the division engineer may use such system of numbering and listing water rights and conditional water rights in order of seniority as is suited to the administrative needs of the particular division or portion thereof. He or she shall also prepare decennially, no later than July 1, 1990, and each tenth anniversary thereafter, a separate abandonment list comprising all absolute water rights that he or she has determined to have been abandoned in whole or in part and that previously have not been adjudged to have been abandoned.

(a.5) In preparing the tabulations required by this section, the division engineer shall include judgments and decrees determining, changing, or otherwise affecting water rights and conditional water rights, which judgments and decrees have been entered more than six months before the date of review. The division engineer must also include in the tabulations, as appropriate, any changes in earlier abandonment lists that the water judge or the supreme court have ordered.

(b) In determining the priority of a water right in relation to other water rights deriving their supply from the same common source, the following procedures and definitions shall apply:

(I) A common source means and includes all of those waters in a water division, either surface or underground, which if left in their natural state would join together to form a single natural watercourse prior to exit from the water division.

(II) As among water rights decreed in the same water district in the same adjudication suit, the historic date of initiation of appropriation shall determine the relative priorities, beginning with the earliest right.

(III) As among water rights decreed in the same water district in different adjudication suits, all water rights decreed in an adjudication suit shall be senior to all water rights decreed in any subsequent adjudication suit.

(IV) As among water rights decreed in the various original adjudication suits in the various water districts of the same water division, the decreed date of initiation of appropriation shall determine the relative priorities in numbered sequence, beginning with the earliest right.

(V) As among water rights decreed in the various supplemental adjudication suits in the various water districts of the same water division, the actual priority date of any decree in any district shall not extend back further than the day following the entry of the final decree in the preceding adjudication suit in such district.

(VI) If, in the preparation of the tabulations provided for in this section, the application of the preceding principles would cause in any particular case a substantial change in the priority of a particular water right to the extent theretofore lawfully enjoyed for a period of not less than eighteen years, then the division engineer shall designate the priority for that water right in accordance with historic practice. In no event shall the provisions of this subparagraph (VI) entitle a water right to a priority senior to its actual date of initial appropriation or to freedom from regulation and administration in the priority system.

(c) In making his OR HER determinations with respect to abandonment, the division engineer shall investigate the circumstances relating to each water right for which the available water has not been fully applied to a beneficial use and in such cases shall be guided by the criteria set out in section 37-92-402 (11). The decennial abandonment list, when concluded by judgment and decree as provided in this section, shall be conclusive as to absolute water rights or portions thereof determined to have been abandoned.

(2) (a) The state engineer and the respective division engineer shall make a copy of the tabulation available for inspection in their offices at any time during regular office hours, as well as on the state engineer's web site, and shall PROVIDE A COPY OF ~~make the tabulation available for purchase~~ for a fee AS SET FORTH IN SECTION 37-80-110 (3) (A) ~~of ten dollars~~.

(b) No later than July 31, 1990, and every tenth anniversary thereafter, the division engineer shall mail a copy of the respective decennial abandonment list by certified mail, return receipt requested, to the owner or last-known owner or claimant, if known, of every absolute water right which the division engineer has found to have been abandoned in whole or in part. The division engineer shall make such examination as is reasonably appropriate to determine the owner or claimant of such absolute water rights. He OR SHE shall also cause publication to be made of the respective portion of the decennial abandonment list in each county in which the points of diversion of any absolute water rights on the list are located. Such publication shall be made for four successive weeks and shall be published, if possible, in a newspaper published in the county where the decreed point of diversion of the water right is located. The publication and mailing requirements of this paragraph (b) shall apply only to absolute water rights or portions thereof which previously have not been adjudged to have been abandoned.

(3) Any person wishing to object to the manner in which a water right or conditional water right is listed in the tabulation or to the omission of a water right or conditional water right from the tabulation, and not later than July 1, 1991, and every tenth anniversary thereafter, any person wishing to object to the inclusion of any absolute water right or portion thereof in the decennial abandonment list must file a statement of objection in writing with the division engineer.

(4) (a) Not later than December 31, 1991, and every tenth anniversary thereafter, the division engineer shall make such revisions, if any, as he OR SHE deems proper to the decennial abandonment list. In considering the matters raised by statements

of objection, the division engineer may consult with any interested persons. The division engineer shall consult with the state engineer and shall make any revisions in the decennial abandonment list determined by the state engineer to be necessary or advisable.

(b) Repealed.

(c) The division engineer shall file the decennial abandonment list, together with any revisions, signed by the division engineer and the state engineer or his or her duly authorized deputy, with the water clerk as promptly as possible, but not later than December 31, 1991, and every tenth anniversary thereafter. Each respective division engineer, water clerk, and the state engineer shall make a copy of the decennial abandonment list, together with any revisions, available for inspection in their offices at any time during regular office hours, as well as on the state engineer's web site, and the division engineer shall furnish or mail a copy to anyone requesting a copy upon payment of a fee in an amount set ~~BY~~ ~~in~~ section 37-80-110 (3~~±~~) (A~~h~~).

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